IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO. 31249 OF 1997

DATED: 18-08-2005

Between:

T.V. KRISHNA PRASAD

R/o. Vijayawada petitioner

And

Union of India,

Department of Telecommunications,

New Delhi

Rep by its Secretary & others Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

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ORDER:

Aggrieved by the action of the respondents in proceeding to disconnect Telephone bearing No. 482571 in pursuance of the notice dated 29-9-1997, issued to four persons, namely Sri Sri Hari Rao,

Sri Subba Rao, Sri Tirumala Venu Babu and Sri Sobhanadeswara Rao, who are Managing Director, Director, Joint Managing Director and Chairman respectively of

M/s. Sri Sai Surya Mushrooms Limited, as illegal and arbitrary, the petitioner filed the present writ petition.

The petitioner states that Sri Tirumala Venu Babu, Joint Managing Director of M/s. Sri Sai Mushrooms Limited, is his tenant, and that he had permitted his tenant to make use of his personal Telephone Number 482571. While so, it is the case of the petitioner that the respondents issued joint notice dated 29-9-1997 to four persons, including his tenant, demanding payment of an amount of Rs.69,114/- towards dues of Telephone Numbers 478343 and 482929, standing in the name of M/s. Sri Sai Musrooms Limited, and informing them that in default, their personal Telephone Numbers would be disconnected. The petitioner states that Telephone Number 482571, which is sought to be disconnected for alleged non-payment of dues of Telephone Numbers 478343 and 482929, in fact, belongs to him, and that he had merely permitted his tenant, who happens to be the Joint Managing Director, to make use of the same. He submits that he has nothing to do with the affairs of the company, for he is neither a Director nor an employee of the company, and as such, the action of the respondents in seeking to disconnect his personal Telephone Number 482571, is illegal and arbitrary.

Upon receipt of the impugned notice, Sri Tummala Venu Babu, the tenant of the petitioner, who happened to be the erstwhile Joint Managing Director of the company, got issued legal notice dated 7-10-1997 denying the averments made in the impugned notice, and he *inter alia* contended that Telephone Number 482571, which the respondents sought to disconnect, in fact, belongs to his landlord, namely Mr.T.V.Krishna Prasad (writ petitioner herein), and that he had used the said Telephone Number as p.p. (particular person), and he being no more the Joint Managing Director of the company, having resigned from the said post in January, 1997, has nothing to do with the alleged dues of the company, and as the Telephone sought to be disconnected by the respondents, does not belong to him, requested the respondents not to take any steps in haste.

By the time the petitioner filed this writ petition, his Telephone was disconnected. Therefore, this Court vide order dated 8-12-1997, while issuing notices to the respondents, granted interim directions to the respondents directing them to re-connect the Telephone of the petitioner bearing No.482571 provided petitioner pays the dues, if any, outstanding against the said Telephone.

Though the writ petition was admitted on 15-07-1998, no counter was filed till 1995. However, at the threat of personal appearance, the respondents filed counter affidavit, *inter alia* contending that M/s. Sri Sai Surya Mushrooms Limited, Vijayawada, has obtained two Telephone connections bearing Telephone Numbers VJ 482929 and 478343, and as the company defaulted in payment of an amount of Rs. 69,114/-, the said Telephones were disconnected on 10-10-1995. As the company in spite of disconnection did not pay the amount, the respondents disconnected the working Telephones of Mr.U.Suryanarayana Babu, Mr.U.Subba Rao, Mr.P.Nagabhushnam, Mr.Shobanadreswara Rao, who the Directors of the company. However, the connection of the Telephones of the Directors, were restored in obedience to the orders of this Court in W.P. Nos. 23419, 28510 and 27354 of 1997. It is stated that there are no dues standing against the Telephone Number of the petitioner, and as such, in pursuance of the interim directions of this Court, the connection was restored.

Heard the learned counsel for petitioner and the learned Additional Central Government Standing Counsel for the respondents.

The Telephone Numbers 478343 and 482929, admittedly stand in the name of M/s. Sri Sai Surya Mushrooms Limited. The said company, admittedly, is in arrears. Though the respondents, in an attempt to recover the due amount from its Directors, sought to disconnect Telephone Number 482571, the fact remains, the said Telephone belongs to the petitioner, who admittedly, is neither a Director nor an employee of the company nor is connected with the affairs of the company. The Telephone Number of the petitioner, which the respondents had disconnected for recovery of arrears of Telephone Numbers belonging to the company, is admittedly not in arrears. The petitioner, merely permitted his tenant, who happens to be the erstwhile Joint Managing Director of the company, to make use of the Telephone, and merely because the Telephone Number, standing in the name of the petitioner, was made use of by the Joint Managing Director of the company, who happened to be the tenant of the petitioner, it cannot be said that the respondents for recovery of the arrears of Telephone Numbers, standing in the name of the company, are entitled to disconnect the telephone of the petitioner, for non-payment of the dues in respect of the Telephone Numbers, standing in the name of the company, either by the company or its Directors, and more so when the petitioner is neither a Director nor an employee of the company. In **Mahalakshmi Legal and Tax consultancy**

Services vs. Asst. General Manager, Telecom, this Court held that Rule 443 under which the respondents disconnected the Telephone of the petitioner, does not empower disconnection of Telephone of one person for the default of another person. In that view of the matter, the action of the respondents in disconnecting the Telephone of the petitioner, for recovery of dues of another Telephone, standing in the name of the company, in which the petitioner is neither a Director nor an employee, is illegal and arbitrary, and more so when it is the admitted case of the respondents themselves that the petitioner is neither a defaulter nor are there any amounts payable by him in respect of his Telephone.

In the result, the writ petition deserves to be allowed, and the same is accordingly allowed. The impugned notice dated 29-09-1997 is set aside, and the respondents are directed not to disconnect the petitioner's Telephone Number, so long as petitioner pays the monthly Telephone bills. This order, however, does not preclude the respondents from taking appropriate steps for recovery of the dues, outstanding against Telephone Numbers 478343 and 482929, belonging to M/s. Sri Sai Surya Mushroom Limited, either from the company or its Directors.

No costs.

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N.V.RAMANA,J

19-08-2005

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